



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

# **Bay Area 2010 Clean Air Plan**

## **Written Comments on Draft 2010 CAP & District Responses**

**Comments Submitted After 4/26/10**

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RESPONSE TO RECENT WRITTEN COMMENTS SUBMITTED ON THE DRAFT BAY AREA 2010 CLEAN AIR PLAN

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<b>Submittal #</b>	<b>Date</b>	<b>Contact</b>	<b>Affiliation</b>
1	7/29/2010	Christine Cordero	Ditching Dirty Diesel Collaborative
2	8/13/2010	Ken Kloc	Bay Area Environmental Health Collaborative
3	8/20/2010	Andy Katz	Bay Area Environmental Health Collaborative
4	9/2/2010	Amy S. Cohen	Bay Area Environmental Health Collaborative

**Submittal #1: Ditching Dirty Diesel Collaborative via July 29, 2010 email**

Dear Mr. Dave Vintze and Ms. Allison Kirk:

Thank you for having met with members of the Ditching Dirty Diesel Collaborative on May 28 to discuss the Draft 2010 Clean Air Plan. We appreciate your willingness to hear our concerns about the plan, and share your perspectives about the development of the draft. We are writing to further refine our recommendations for the 2010 Clean Air Plan (CAP).

On April 26, 2010 the Ditching Dirty Diesel Collaborative (DDD) submitted a comment letter on the Draft 2010 CAP (attached). While we commended the effort to develop a multi-pollutant strategy to reduce ozone, particulate matter, and their precursors throughout the greater San Francisco Bay Area, we urged the Air District to place greater emphasis on the following guiding principles:

1. Public health impacts—especially from freight-related diesel particulate matter (PM)—must be at the forefront of land-use planning measures to improve air quality.
2. Control measures must recognize and address the environmental injustice of disproportionate impacts of freight transport and diesel PM on low-income communities of color.
3. The Air District must create effective channels for public participation to inform and implement control measures, particularly from communities that have historically been under-represented in environmental decision-making.

DDD believes in strong public participation to inform and achieve improved public health outcomes for the most impacted communities in the Bay Area.

Towards this end, we hope that the CAP will have comprehensive public participation and implementation process that is clearly outlined and fully resourced. We would like to see efforts by the Air District to engage residents from communities impacted by freight-related diesel pollution. Specifically, the Air District should reach out to community-based organizations and institutions in CARE priority areas in the all freight-related measures, including the development of truck routes, scoping of rulemaking for indirect and magnet sources, the development of Community Risk Reduction Plans and the enforcement of air toxic control measures. In addition, the Air District should make all data collected for development of CARE Priority Areas available to the public in a way that data at different geographic scales can be compiled, analyzed, and displayed.

Attached are two documents.

- Attachment A summarizes the issues described in our April 26, 2010 letter that are our priorities for the 2010 CAP.

- Attachment B contains our recommendations for specific language changes to the 2010 CAP such that it reflects these priorities.

We thank you for your consideration of our comments and recommendations. As discussed at our May 28th meeting, we would like to meet with you soon to continue this discussion. We would like to propose the following dates and times for a follow-up meeting in the next two weeks. Please let us know which dates are convenient for you.

Sincerely,

Christine Cordero  
The Ditching Dirty Diesel Collaborative

**Attachment A to 7/29/10 email from Ditching Dirty Diesel Collaborative**

**Ditching Dirty Diesel Priorities for the 2010 Clean Air Plan (via 7/29/10 email)**

- **Enhanced Transparency and Community Engagement**  
DDD believes in strong public participation to inform and achieve improved public health outcomes for the most impacted communities in the Bay Area. Towards this end, we hope that the CAP will have comprehensive public participation and implementation process that is clearly outlined and fully resourced. We would like to see efforts by the Air District to engage residents from communities impacted by freight-related diesel pollution. Specifically, the Air District should reach out to community-based organizations and institutions in CARE priority areas in the all freight-related measures, including the development of truck routes, scoping of rulemaking for indirect and magnet sources, the development of Community Risk Reduction Plans and the enforcement of air toxic control measures. In addition, the Air District should make all data collected for development of CARE Priority Areas available to the public in a way that data at different geographic scales can be compiled, analyzed, and displayed.
- **Regional truck route for the San Francisco Bay Area**  
DDD would like to see the Air District play an active role in the development of a *regional* truck route. Currently, the development of truck routes has been at the initiative of cities and counties. While these efforts have succeeded in reducing exposure to freight-related air pollution in some areas, many localities that do not have enforceable, health-protective truck routes face disproportionate public health impacts. In many cases, local restrictions on truck traffic (e.g. the truck ban on Interstate 580) have pushed truck traffic into other areas, predominantly in low-income communities of color. These shortcomings of local truck route initiatives illustrate the need for greater regional coordination. The Air District should engage with other regional planning agencies, like the Metropolitan Transportation Commission and the Association of Bay Area Governments, to develop an enforceable, health-protective truck route for the regional freight distribution system.
- **Development of a Magnet Source Rule**  
DDD believes that a Magnet Source Rule should be developed in conjunction with an

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Indirect Source Rule. Magnet sources contribute significantly to freight truck traffic and diesel PM emissions at the neighborhood scale, especially in low-income communities of color<sup>1</sup>. As such, cumulative impact assessments that only include point sources and major roads can significantly underestimate local exposure to air toxics. At the very least, the Air District must develop a methodology for estimating health risks and other local impacts (e.g. neighborhood truck traffic) associated with different categories of magnet sources. Given the current unavailability of data, the Air District should also consider requiring major magnet sources to calculate and report emissions.

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- **Enforcement of air toxics control measures related to freight transport**

The Air District must articulate its authority to enforce air toxics control measures and outline how enforcement responsibility will be shared with local law enforcement agencies (e.g. county and city police) and state and federal agencies (e.g. EPA Region 9). The Air District must also create a mechanism for community enforcement actions, such as improving response systems for community grievances and working with community-based organizations to identify idling hotspots. Finally, the Air District must also articulate how money collected from citations will be spent. DDD supports the allocation of citation money to diesel emission reduction strategies in impacted communities.

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**Protecting public health in regional climate planning processes**

In recent years, there has been an increasing effort to improve air quality through better land-use and transportation planning. Legislation like Senate Bill (SB) 375, aims to reduce emissions of pollutants and greenhouse gases (GHGs) by prioritizing residential and commercial development along major transportation corridors. While such transit-oriented development and mixed land-uses can greatly reduce vehicle miles traveled by cars and light trucks in the region, it can also exacerbate public health impacts from freight transport. As such, the Air District must take a strong role in ensuring that regional plans do not result in land use conflicts that further increase exposure to diesel PM and other freight transport impacts.

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**Strong, Health-Protective Indirect Source Rule**

According to the Air Districts Community Air Risk Evaluation (CARE) Program, "on-road and off-road mobile sources are responsible for the majority of cancer risk from air toxics." Cancer risk is especially pronounced in neighborhoods like West Oakland, which is adjacent to major freight transport hubs and surrounded by goods movement corridors. Ongoing expansions of freeways, railyards, and ports terminals threaten to exacerbate health outcomes in fence-line communities. As such, the development of a strong, *health-protective* Indirect Source Rule (ISR) should be a major priority for the Air District this year.

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**Promote measures to reduce emissions from all freight transport sources**

While shifting freight transport from truck to rail and barge (LUM 1) could reduce emissions and exposure associated with goods movement, it is important to also identify strategies to reduce emissions from rail and barge transport. Rail produces

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<sup>1</sup> Ditching Dirty Diesel defines a magnet source as a facility that attracts significant freight truck traffic. This includes major freight transport nodes (e.g. airports, seaports, warehouses, distribution centers), as well as business that rely heavily on or service heavy-duty trucks (e.g. recycling centers, repair shops).

more nitrous oxides (NOx) per mile than trucks and rail's fuel benefit substantially decreases if the full door to door transport costs are considered<sup>2</sup>. The Air District should join the South Coast Air Quality Management District in advocating for California Air Resources Board (CARB) to adopt enforceable measures to reduce diesel pollution from rail yard operations.

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**Attachment B: Specific Language Changes Recommended by the Ditching Dirty Diesel Collaborative for the 2010 Clean Air Plan**

**Land Use Measure (LUM) 1: Goods Movement**

**Purpose:**

The purpose of this measure is to 1) reduce human exposure to diesel emissions from goods movement in the near term, 2) develop and support long-range strategies and partnerships to reduce emissions from the movement of freight in the Bay Area, and 3) prioritize control measures in communities disproportionately impacted by pollution from goods movement, as identified through the District's Community Air Risk Evaluation Program.

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**Implementation Actions:**

**Regional Implementation Actions:**

- Lead a Collaborative Regional Effort – Continue working with regional partner agencies, transportation stakeholders, and impacted communities in a collaborative regional process to articulate and advance a regional strategy for goods movement in the Bay Area, with a focus on air quality, health, and climate protection. This will include activities already underway, such as the Air District's Green Ports Initiative and the Port of Oakland's Maritime Air Quality Improvement Plan (MAQIP), as well as exploratory efforts to advance a regional truck route as a strategy for reducing local and regional emissions and exposure.
- Identify Strategies for Mode Shift – Examine opportunities to shift freight transport from truck to rail and barge in order to reduce emissions and exposure associated with movement of freight in the Bay Area. The District will participate in projects where mode shift can be beneficial to local and regional air quality, such as the "marine highway," a project to move freight by barge and tugboat between the Port of Oakland and the Port of Stockton. At the same time, the Air District will promote measures to reduce existing emissions and localized exposure associated with rail and barge, such as retrofitting or replacing older switch locomotives, hostlers, and cargo handling equipment<sup>3</sup>
- Efficiencies in Distribution Systems (roadways, logistic systems) – Assess current freight distribution systems and routes for major transport modes, and make recommendations for increasing travel efficiencies to reduce emissions.

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<sup>2</sup> 2 Noël Perry, July 2009 Transportation Market Outlook, Transport Fundamentals, pp. 25-26, available at [www.fhwa.dot.gov/freightplanning/talking.htm](http://www.fhwa.dot.gov/freightplanning/talking.htm)

<sup>3</sup> See 'Technical Options to Achieve Additional Emissions and Risk Reductions from California Locomotives and Railyards', CA Air Resource Board, August, 2009. <<http://www.arb.ca.gov/railyard/ted/ted.htm>>

Areas of evaluation will include truck movements on regional highways and local roads between seaports, airports, warehousing/distribution centers, and other magnet sources, and operational and/or design improvements to facilitate more efficient goods movement.

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- Best Practices for Goods Movement Land Uses – Warehousing and Distribution Centers. MTC's *Goods Movement Initiatives 2009* highlights a need to preserve land within the Bay Area core for goods movement businesses such as warehousing and distribution in order to decrease trip lengths and emissions associated with goods movement distribution. This may have implications for areas identified as impacted communities by the Air District, because many of these communities are located along the Bay Area's major trade corridors. In order to avoid or mitigate population exposure to emissions from goods movement, the District will work with regional partners and impacted communities to identify and disseminate best practices to promote good air quality, and public health and safety in neighborhoods where goods movement facilities are situated adjacent to residential land uses. Best practices may include site design, zoning, industry operating practices and technological innovations. Best practices will be evaluated based on their ability to promote public health while encouraging infill development, particularly in FOCUS Priority Development Areas. This work will align with, and inform, the development of a regional Sustainable Community Strategy under SB375 and complement efforts by the FOCUS program to address the role of employment centers in smart growth.
- Partnerships and Demonstration Projects – The District will work with regional partners and stakeholders to identify, evaluate, and implement innovative projects that reduce emissions and exposure associated with goods movement. Demonstration projects are intended to spark long-range changes in freight movement and technology use that will result in reduced vehicle miles traveled, emissions, and human exposure to harmful emissions. Such projects may include implementing cold-ironing (shorepower) infrastructure at Bay Area ports in advance of ARB regulations in order to eliminate ship idling while docked, utilizing liquefied natural gas (LNG) to provide shorepower, promoting the use of LNG to power drayage fleets, funding new switcher engines at Bay Area railyards, emissions reduction measure specific to magnet sources, and continuing to work in partnerships such as the Green Ports initiative. Partnerships and demonstration projects will be prioritized for CARE communities and, as such, will be discussed in meetings of the CARE Task Force.

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#### Local Implementation Actions

- Collaborative enforcement - The Air District is developing a diesel enforcement program whereby inspectors may enforce ARB's diesel air toxics control measures (ATCMs) specifically targeting impacted areas identified by the CARE program along two major Bay Area trade corridors. [Insert strong language on Air District's authority to enforce ACTMs]. Initial enforcement activity will be focused on diesel truck idling and drayage trucks and will expand to include other ATCMs as they become applicable, including cargo handling equipment, truck



refrigeration unit (TRU) enforcement, Gen Set enforcement, and off-road construction equipment. The District will also partner with local jurisdictions to create mechanisms for community enforcement actions, especially for ARB's anti-idling regulation, such as working with community-based organizations to identify idling hotspots and improving systems for responding to community grievances. The Air District's diesel enforcement program will also articulate how money collected from citations will be spent, with preference given to diesel emission reduction strategies in impacted communities.

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- Systematic outreach and incentives program for independent and fleet truck operators – The District will continue and enhance outreach efforts to independent and fleet truck operators regarding available funds for installing retrofit devices on and/or replacing their trucks. The Air District will continue to operate a trailer at the Port of Oakland to inform truck drivers about ARB's applicable anti-idling ATCMs, emission reducing technologies and fuels, and targeted incentives program in efforts to reduce emissions from the Port and along the I-880 corridor.
- Signage and truck routes – Air District staff will facilitate discussions with county planning departments, county public health departments, local businesses and industries, and community-based organizations and institutions to assist in the planning process to identify suitable truck routes in and around impacted communities. Signage will then be placed to discourage idling and promote truck movements along non-residential arterial roads to reduce human exposure. The Air District will also engage in exploratory efforts to advance a regional truck route as a strategy for reducing disproportionate exposure in impacted communities.

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#### **Land Use Measure (LUM) 2: Indirect Source Review**

##### **Purpose:**

The purpose of the Indirect Source Rule is to reduce emissions and exposure associated with new or modified land use development to attain health based ambient air quality standards. The rule may also achieve co-benefits by reducing emissions of greenhouse gas. The measure is intended to address increases in air pollutant emissions from economic and population growth in the region by encouraging new or modified development projects to be designed, sited and constructed so as to reduce motor vehicle and area source emissions, as well as regional or localized exposure to those emissions.

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##### **Implementation Actions:**

- The District staff will propose a rule that sets air quality performance standards for new and modified development for adoption by the Board. Fees will or may be assessed for projects that exceed the adopted thresholds.
- Standards and fees would be structured to provide incentives for projects located and designed to minimize emissions, exposure, and associated health risk.
- To initiate the ISR rulemaking process, the Air District has convened a broad-based stakeholder workgroup comprised of representatives from local governments, the

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building industry, developers, realtors, other business representatives, and environmental/community members.

- District staff will broaden participation in the stakeholder group to achieve greater representation from communities most impacted by emissions from mobile and area sources, as identified by the Community Air Risk Evaluation (CARE) program.
- District staff will resume consulting with the stakeholder group regarding the scope, structure, and applicability of the ISR rule, the basis for any fees associated with the rule, and the distribution of fees collected from ISR threshold exceedances.
- Details regarding administration of the rule will be determined via the rule-making process.
- Develop a Magnet Source Rule in Conjunction with the development of an Indirect Source Rule that will identify the health risks associated with defined magnet sources and develop strategies to reduce the remissions, exposures to, and health risks from magnet sources.

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#### **Exposure Reduction:**

This measure will reduce region-wide population exposure to air pollutants based on the estimated reduction in emissions. This measure will also reduce localized population exposure to air pollution in the six priority communities identified by the Air District's CARE program.

#### **LUM 3 – Updated CEQA Guidelines and Enhanced CEQA Review**

P. D-13, 3<sup>rd</sup> bullet point:

- As described in LUM 4, the District will encourage local jurisdictions to develop Community Risk Reduction Plans to reduce public exposure to air toxics and PM, and provide technical assistance in developing these plans, including assistance in developing adequate community engagement plans that create effective channels for public participation to inform and implement the plans.

#### **LUM 4 – Land Use Guidance**

P. D-16, 4<sup>th</sup> bullet point:

- The District will work with cities and counties to develop Community Risk Reduction Plans (CRRPs) to reduce population exposure to air toxics and PM, particularly in impacted communities identified through the CARE program. The District will provide technical assistance in preparing these plans, including assistance in developing adequate community engagement plans that create effective channels for public participation to inform and implement the plans. The CCRPs should provide comprehensive plans for defined areas, including public engagement processes,

emission inventories, numerical goals or target, risk modeling, emission reduction measures, and monitoring mechanisms.

## **LUM 5 – Reduce Health Risk in Impacted Communities**

### **Brief Summary:**

This measure describes a set of complementary actions and programs that comprise key elements of the Air District's strategy to reduce emissions and population exposure in impacted communities as identified by the Air District's Community Air Risk Evaluation (CARE) Program. Key elements of this measure include:

- The District will establish a system accessible to the public to track cumulative health risks associated with emissions from stationary, mobile, and area sources in order to help monitor progress in reducing population exposure in impacted communities.
- The District will revise rules to tighten requirements in order to reduce emissions of air toxics and particulate matter from existing sources via its Air Toxics "Hot Spots" Program and from new sources via its New Source Review rules. See SSM 16, 17, and 18 for additional description of these rule revisions.
- The District will develop additional rules indirect source rule in order to reduce emissions of air toxics and particulate matter associated with new or modified land uses and new and existing facilities that attract or generate a high volume of activity or usage of mobile sources of emissions.

### **Purpose:**

The purpose of this measure is to address the cumulative air quality impacts of emissions from stationary, mobile, and area sources in impacted communities.

### **Source Category/Travel Market Affected:**

Stationary sources subject to the District's permitting regulations, as well as mobile sources and area sources.

### **Implementation Actions:**

This measure describes the District's strategy for reducing emissions and exposure from stationary sources, new or modified land uses, and magnet sources in impacted communities. Specific components of this measure are described below.

**Deleted:** While recognizing that stationary sources regulated by the Air District are only a portion of the sources that contribute to differential population exposure and risk levels, t

P. D-22, 2<sup>nd</sup> full bullet point:

As described in LUM 4, the District will encourage local jurisdictions to develop Community Risk Reduction Plans to reduce public exposure to air toxics and PM, and provide technical assistance in developing these plans, including assistance in developing adequate community engagement plans that create effective channels for public participation to inform and implement the plans.

[add the following three implementation actions]

- The District will develop an indirect source rule in order to reduce emissions of air toxics and particulate matter associated with new or modified land uses in the Bay Area. See LUM3 for additional description of this rule.

- The District will develop a magnet source rule in order to reduce emissions of air toxics and particulate matter associated new and existing facilities that attract or generate a high volume of activity or usage of mobile sources of emissions, such

as cars, trucks, off-road equipment, etc.

- Air District should make all data collected for development of CARE Priority Areas available to the public in a way that data at different geographic scales can be compiled, analyzed, and displayed.

Submittal #: 1

Date: July 29, 2010

From: Ditching Dirty Diesel Collaborative (DDDC)

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Response to Comments:

1-1 The Air District is committed to engaging with residents of impacted communities as we move forward to implement control measures in the 2010 CAP. The District will engage with impacted communities by means of the CARE Task Force, outreach in developing specific stationary source rules, as well as the indirect source review rule, and by working with local governments to ensure that there is a robust public engagement component in development of Community Risk Reduction Plans (CRRPs). In response to the DDDC comment, staff added text to the descriptions of control measures LUM 3, LUM 4, and LUM 5 to emphasize that the District will work with local governments to ensure that there is a robust public engagement component in the development of CRRPs.

1-2 LUM 1 in the 2010 CAP provides a comprehensive set of implementation actions to protect impacted communities from exposure to emissions from the goods movement sector. LUM 1 includes an implementation action regarding truck routes as follows:

*Signage and truck routes – Air District staff will facilitate discussions with county planning departments, county public health departments, local businesses and industries, and community groups to assist in the planning process to identify suitable truck routes in and around impacted communities. Signage will then be placed to discourage idling and promote truck movements along non-residential arterial roads to reduce human exposure.*

Air District staff does not believe that the District is the appropriate agency to lead a regional truck route planning process, because there are many factors, in addition to air quality, that must be considered in evaluating and selecting truck routes. However, the District will contribute its air quality expertise and technical resources to truck route planning efforts at both the local and regional level.

1-3 A magnet source rule may provide a means to reduce emissions and population exposure in impacted communities. However, as noted in District staff responses to DDDC's April 26, 2010 comment letter, the idea of a magnet source rule is included as a Further Study Measure in the CAP, because Air District staff believes that additional research and evaluation is needed before determining whether such a measure should be proposed as a formal control measure. Please note that the CAP control strategy includes numerous other measures to reduce diesel emissions and exposures. In response to public comment, staff has revised LUM 5 to specify

that emissions from magnet sources will be included in developing the cumulative risk tracking system for impacted communities.

- 1-4 As noted in the response to this point in DDDC's April 26, 2010 letter, the Air District's Mobile Source Compliance Plan (MSCP) is based upon a Memorandum of Understanding (MOU) between the Air Resources Board and BAAQMD. The MOU defines the role and responsibilities of each agency. For additional information regarding the MSCP, see this link on the BAAQMD website: <http://www.baaqmd.gov/Divisions/Compliance-and-Enforcement.aspx>. Under the terms of the MOU, when the Air District issues citations which are litigated or settled by CARB, the penalties are shared equally by both parties. Revenues from penalties will be deposited into the District's General Revenue fund. This fund is used to support a wide range of air quality programs, including mobile source enforcement, such as implementation of the MSCP, as well as inspections of vehicles that will receive Air District grant funding.
- 1-5 The Air District supports efforts to promote focused growth in the Bay Area. One of the Air District's key concerns is to ensure that regional and local efforts to promote focused growth so as to protect Bay Area residents from exposure to harmful air pollutants. This was an important consideration in developing the Land Use Measures (LUMs) for the CAP, as well as in the Air District's revised CEQA guidelines. District staff will continue to work with its regional agency partners to address this concern in the development of a Sustainable Communities Strategy for the Bay Area pursuant to SB 375, as well as related efforts to promote focused growth in the region.
- 1-6 The description of LUM 2 (indirect source review) has been modified to clarify that the purpose of this measure will be to reduce emissions and exposure associated with new or modified land use development. Staff encourages and welcomes involvement of impacted communities and other stakeholders as the District moves forward to develop an indirect source review rule.
- 1-7 Staff agrees that it is important to reduce emissions from all modes of goods movement. In implementing LUM 1 and related CAP control measures, Air District staff will look for opportunities to reduce emissions from rail and barge operations.

**District Response to Attachment B: Specific Language Changes Recommended by the Ditching Dirty Diesel Collaborative for the 2010 Clean Air Plan**

In Attachment B to its July 29, 2010 email, Ditching Dirty Diesel Collaborative made many specific suggestions for edits to the draft Land Use & Local Impacts Measures (LUMs). Staff incorporated many of these changes into the revised LUMs in the proposed final Clean Air Plan. District staff discussed all the changes suggested by DDDC in detail with DDDC staff, and provided an explanation in the case of any suggestions that were not accepted.

**Submittal #2: Comments Submitted by Ken Kloc via email 8/13/10**

After having reviewed your responses to CBE's comment on grandfathered sources, I have the following thoughts.

I agree with you that one good way of reducing emissions from grandfathered sources is to review source categories for problem sources and come up with rules to reduce emissions from these sources. However, based upon the SSM list in the draft CAP it seems that a number of important grandfathered sources are not being addressed (and when I say important, I mean both at a broader population level as well as a single neighborhood level).

For example, consider the Owens Brockway glass company in Fruitvale (a facility that was also mentioned in CBE's comment). One of its 3 glass furnaces does not appear to have any PM abatement (although the other two are hooked up to an electrostatic precipitator). The unabated furnace (reportedly) has been emitting about 40 TPY of PM2.5 whereas the abated ones have been emitting only about 2 TPY each. There is also a conveyor at the plant that has emitted about 20 TPY of PM10 and does not appear to have any abatement device.

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A revision of Regulation 6-1 (as described in SSM 6) might solve PM problems such as the glass factory emissions, or it may not, depending upon how the District rewrites this rule and how stringent it is. For example, note that 40 TPY equates to about 9 lb/hr, so the unabated glass furnace would still comply with the South Coast AQMD PM regulation which allows 14 lb/hr at a process rate of about 34,000 lb/hr. I'm using the South Coast limit because you've pointed to it as a potential model for a more stringent Reg 6-1.

Although grandfathered PM sources are probably the biggest issue, BAEHC and the other groups want all grandfathered sources to be better controlled and we don't believe that the draft CAP currently provides a comprehensive solution. To solve the problem, the District should add language to its general permit requirements such that a review of grandfathered equipment is carried out whenever any permit is renewed to make sure that all air pollution sources at a facility are operating up to modern health and technological standards.

In our comment letter on the 2010 CAP, we stated that a revision of Reg. 6-1 should be based upon health considerations and potential air concentrations resulting from PM emissions. In SSM 6 the District provides a detailed explanation of how it plans to go about revising Reg. 6-1, which does not include any consideration of a health-based approach. As written, SSM 6 essentially closes the door on alternative methods for rulemaking, so we do not think that you've given us a proper response to our comment when you simply say that we should participate in the rule making. We believe the District needs to revise the language of SSM 6 to indicate that a health-based approach will be seriously considered during the rulemaking.

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Ken Kloc  
Environmental Law and Justice Clinic, Golden Gate University  
536 Mission Street  
San Francisco, CA 94105

Submittal #: 2

Date: August 13, 2010

From: Ken Kloc, Bay Area Environmental Health Collaborative

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Response to Comments:

- 2-1 District staff has carefully considered the issue of “grandfathered sources.” While sharing the objective of reducing emissions from older equipment, staff does not believe that a control measure to impose best available control technology (BACT) requirements on older permits is the best way to reduce emissions from these sources. The process of reviewing source categories for significant sources of emissions, reviewing other districts’ rules and emissions limits, identifying problem sources, evaluating technical feasibility and costs of additional controls, and adopting or amending rules as needed, has proved to be a better approach to reducing stationary source emissions in the District. For example, the CAP includes SSM 14 which targets further emissions reductions from glass manufacturing facilities, the example cited in the comment. A BACT requirement for older sources may not result in more stringent control than would a retrofit rule for that source category. In addition, BACT has a cost ceiling for equipment where control has not been established in practice. In many cases, requiring BACT would merely entail compliance with existing rules. A blanket requirement for BACT for all permit renewals could result in high costs for certain sources, whereas a source category evaluation allows a more precise examination of technical feasibility and costs. In sum, District staff believes that the idea of requiring more stringent permit conditions on older equipment would be neither an efficient nor effective way to achieve the goal of reducing emissions from these sources.
- 2-2 In response to this comment, the description of SSM 6 (General Particulate Matter Emissions Limitation) has been revised as follows:
- The “Purpose” of SSM 6 the measure has been revised to state: *“The purpose of this measure is to reduce emissions of particulate matter in order to decrease population exposure and protect public health, both at the regional scale and in impacted communities.”*
  - District staff also added text in “Regulatory Context” section of SSM 6 to note that current evidence suggests that PM, and especially PM<sub>2.5</sub>, is the pollutant that imposes the greatest health impact on Bay Area residents.



**Submittal #3: Andy Katz on behalf of Bay Area Environmental Health Collaborative (BAEHC) via email on 8/20/10**

To: David Burch

The following language could describe BAEHC's interest in cumulative impacts and new sources:

*"The District will consider more stringent standards for new and existing sources in the most impacted communities through the CARE Program, and in development of Community Risk Reduction Plans."*

This would likely go best in In LUM 5 / starting on D-20 / page 210; but could also fit into SSM 16/17.

Overall, this is good plan, and I'm appreciative of the opportunity to provide feedback.

Andy Katz



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Submittal #: 3

Date: August 20, 2010

From: Andy Katz, Bay Area Environmental Health Collaborative

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Response to Comments:

- 3-1 District staff believes that it makes sense to focus on CARE impacted communities for the purposes of targeting grants and enforcement efforts. However, staff sees several problems with the concept of imposing more stringent standards or rules just for impacted communities. For example:
- Imposing more stringent standards on facilities in impacted communities could provide an incentive for a facility to relocate to another site in the District or outside the District where standards are less stringent;
  - Boundaries of impacted communities may change over time in response to factors such as changes in emissions, demographic changes, etc.;
  - Not all impacted areas are necessarily captured within the boundaries of our current CARE areas. There may be small clusters elsewhere that deserve to benefit from tighter standards imposed on a region-wide basis.

At the January 6, 2010 Board meeting to consider amendments to Reg. 2, Rule 5, several members of the Board of Directors requested that staff continue to consider the idea of imposing more stringent standards for new and existing sources in the most impacted communities. Therefore, SSMs 16 & 17 make mention of this.

In response to Mr. Katz's comment, staff added text to LUM 5. (The new text is shown in underline font below.)

- *District staff will continue developing and implementing source-category-specific rules to reduce emissions and risk in impacted communities. An example is SSM1: Metal-Melting Facilities, a control measure contained in this draft control strategy which will further control emissions from foundries and metal forging facilities. District staff will assess other source types and facilities throughout the region as candidates for source-category-specific rules. In the context of the CARE program and developing CRRPs, District staff will perform analysis to identify the major sources of emissions and risks in impacted communities. The results of this effort will help to identify the need for more stringent regulations that would reduce emissions from sources in impacted communities and throughout the District as a whole.*

**Submittal #4: Bay Area Environmental Health Collaborative via 9/2/10 email**

September 2, 2010

To: Jack Broadbent, Air Pollution Control Officer  
Henry Hilken, Director of Planning, Rules, Research  
David Burch, Principle Environmental Planner  
Alison Kirk, Senior Environmental Planner  
CC: BAAQMD Board of Directors, BAEHC Members

From: Bay Area Environmental Health Collaborative

**Re: BAEHC Priorities for the 2010 Clean Air Plan**

The Bay Area Environmental Health Collaborative (BAEHC) submitted detailed comments to the Bay Area Air Quality Management District (BAAQMD) on the 2010 Draft Clean Air Plan (CAP). Our members have long advocated implementation of strong enforceable measures to limit and reduce cumulative pollution impacts, with a focus on overburdened communities. BAEHC believes that addressing inequities in these communities should be the District's immediate priority, with swift implementation of the most stringent measures through the CAP.

While the Draft CAP contains some important measures, we believe the District can and should do more to reduce pollution and health risk in overburdened communities.

Additionally, as the Draft CAP refers repeatedly to the proposed concept for Community Risk Reduction Plans (CRRPs), we would expect to see a stronger proposal for CRRPs incorporated into the CAP.

ATTACHED and BELOW please find BAEHC's recommendations for priorities for implementation of the 2010 CAP. We would appreciate the opportunity to discuss these priorities with you.

Please do not hesitate to contact me if you have any questions or would like additional information. Thank you.

Best regards,  
Amy S. Cohen  
on behalf of the Bay Area Environmental Health Collaborative

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**BAEHC Priority Recommendations on  
BAAQMD 2010 Draft Clean Air Plan**

- ❖ *Reducing pollution in the most impacted communities should be a central guiding principle in implementation, including the most stringent enforceable measures*
- ❖ *Effective public participation by affected residents should be an essential component of the CAP*

- ❖ *Prioritize benefits for the most impacted communities to eliminate exposure and health inequities*
- ❖ *Need for more ambitious goals for reductions of particulate matter (PM) for real public health protection, including PM 2.5 and PM 10, in addition to diesel PM*
- ❖ *Energy and climate change measures should prioritize reducing localized impacts, not just regional reductions, including energy efficiency measures at industrial facilities*
- ❖ *The Board of Directors should retain active oversight throughout implementation of the CAP*

### **BAEHC Proposed Priority Measures for the 2010 CAP**

#### ❖ **Particulate Matter Limits**

- *SSM 6 – Particulate Matter Limitations:* This rule should be revised with the most protective PM standards based on the potential health impacts of exposure. 4-1
- *SSM 16 – New Source Review for PM 2.5:* This rule should be revised to include more stringent standards to prohibit new PM pollution in highly impacted communities with limited exceptions, and expanded public participation requirements for all proposed projects in these areas. 4-2

#### ❖ **Indirect Source Rule & Magnet Source Rule**

- *LUM 1 – Indirect Source Rule:* This rule must address the potential for transit-oriented development to expose new residents to existing and new pollution. Strong participation by affected community residents, including timely input on mitigation and fee distribution, is critical. 4-3
- *FSM 11 – Magnet Source Rule:* This should not be a “further study measure” but prioritized for implementation as a Mobile Source/Land Use Measure to reduce exposures from facilities attracting diesel PM sources. Start by developing a thorough inventory with extensive public input. 4-4

#### ❖ **Reduce Risk in Impacted Communities**

- *LUM 5 – Reduce Risk in Impacted Communities:* This measure includes no reductions *per se*. It must be strengthened to include 4-5

enforceable measures and programs to prioritize reducing health risk and inequities in overburdened CARE communities, with comprehensive community involvement and oversight.

4-5

- **CRRPs** – These plans must have strong criteria and processes for development, implementation and oversight, with ambitious reduction goals and targets (see BAEHC Recommendations).

4-6

- **SSM 17 – New Source Review for Toxics:** This rule should be revised to include more stringent standards to prohibit new TAC pollution in highly impacted communities with limited exceptions, and expanded public participation requirements for all proposed projects in these areas.

4-7

❖ **Existing Source Rule for “Grandfathered” Sources**

- **New SSM for Existing Sources** – BAAQMD should develop and publish an inventory of exempt “grandfathered” sources and impose modern pollution control standards through a comprehensive program. Sources affecting the most impacted communities should be prioritized.

4-8

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Date: September 2, 2010

From: Amy S. Cohen, Bay Area Environmental Health Collaborative

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Response to Comments:

- 4-1 District staff has made revisions to SSM 6 to emphasize the importance of reducing population exposure to PM<sub>2.5</sub>, both at the regional scale and in impacted communities. Please see the response to Comment 2-2 above.
- 4-2 Please see the response to Comment 3-1 above.
- 4-3 The description of LUM 2 (indirect source review regulation) has been modified to clarify that the purpose of this measure will be to reduce emissions and exposure associated with new or modified land use development. Staff encourages and welcomes involvement of impacted communities and other stakeholders as the District moves forward to develop an indirect source review rule.
- 4-4 Please see the response to Comment 1-3 above.
- 4-5 The primary purpose of LUM 5 is to develop a cumulative risk-tracking system for impacted communities identified by the District's CARE program. District staff has revised the description of LUM 5 to clarify that the risk-tracking system will include 1) the full range of emissions sources (stationary, area, mobile, indirect, and magnet) and 2) air toxics and direct emissions of PM<sub>2.5</sub>, plus other criteria pollutants that are technically feasible to include.
- 4-6 District staff believes that the description of Community Risk Reduction Plans in CAP measure LUM 4 addresses this comment. The specific details of CRRPs will be determined through the process of developing the plans, with ample opportunity for public input by means of CARE Task Force meetings and other means of public engagement. The CRRP description in LUM 4 is excerpted below:

*The District will work with cities and counties to develop Community Risk Reduction Plans (CRRPs) to reduce population exposure to air toxics and PM, particularly in impacted communities identified through the CARE program. The District will provide technical assistance in preparing these plans, including assistance in developing community engagement plans that create effective channels for public participation to inform and implement the plans. The CRRPs should provide comprehensive plans for defined areas, including public engagement processes, emission inventories, numerical goals or targets, risk modeling, emission reduction measures, and monitoring mechanisms.*

- 4-7 Please see the response to Comment 3-1 above.
- 4-8 In the course of developing the control measures for the 2010 CAP, District staff performed an analysis of so-called “grandfathered sources.” It should be noted that these sources are in fact subject to applicable District rules and regulations. Staff provided a detailed discussion of these sources in its response to Communities for a Better Environment in the August 3, 2010 comment summary document (see comment 19-5). Key excerpts from that response are shown below. In addition, see response to Comment 2-1 (Ken Kloc) above.

*Excerpt from Air District response to Comment 19-5 (see August 3, 2010 comment summary document):* In developing the 2010 CAP, Air District staff reviewed permits issued before 1980 to analyze potential emission reductions from older facilities. There are 867 pre-1980 sources in refineries, plus more than 2800 such permits outside of refineries. Of the non-refinery permits, over 700 of these sources are liquid storage tanks, almost 100 are boilers, 230 of them are emergency generators, and almost 500 are dry material storage, conveying and working equipment. The remaining sources include chemical reactors, non-organic liquid processes such as anodizing tanks, wastewater treatment operations such as clarifiers and treatment ponds, landfills, loading racks, paint booths, printing presses, ovens and wipe cleaning operations. These are subject to general regulations and rules, such as Regulation 6: Particulate Matter, and specific rules such as various Regulation 8 rules. Four hundred and eighty-four (484) of the 867 pre-1980 refinery sources are tanks. Many of the remainder are refinery process units, and combustion sources such as boilers that provide heat and steam for the process units. The refinery sources also include loading racks, flares, other abatement devices and wastewater treatment units. Basic refinery unit emissions mostly consist of combustion emissions, limited by Regulation 9, Rule 10: Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries, and fugitive emissions, limited by Regulation 8, Rule 18: Equipment Leaks.